

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

FILED

2017 APR 12 AM 10:47

CLERK OF DISTRICT COURT  
WESTERN DISTRICT OF TEXAS

BY \_\_\_\_\_ *gl*  
DEPUTY

JOSEPH OZMUN,

Plaintiff,

-vs-

Case No. A-16-CA-940-SS

PORTFOLIO RECOVERY ASSOCIATES, LLC;  
RAUSCH, STRUM, ISRAEL, ENERSON &  
HORNIK LLC; WESTERN SURETY  
COMPANY; and TRAVELERS CASUALTY AND  
SURETY COMPANY OF AMERICA,  
Defendants.

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**ORDER**

BE IT REMEMBERED on this day the Court spent a considerable amount of its valuable time reviewing the above-captioned case and its pleadings and now enters this order.

This lawsuit was filed on August 3, 2016 and slowly progressed until a motion for summary judgment was filed by Rausch, Strum, Israel, Enerson & Hornik and Travelers Casualty and Surety Company of America on February 21, 2017. At that time, the Plaintiff Ozmun, in defense of the allegations of the motion for summary judgment, filed "Plaintiff's Motion for Leave to File First Amended Complaint Instantly" (of course, without any prior consultation with counsel). The amended complaint was timely, and the Court granted the motion to file, notwithstanding the response in opposition.

This lawsuit apparently concerns Plaintiff Ozmun's debt of a slightly more than \$2,000.00 to Portfolio Recovery Associates which employed the Rausch, Strum, Israel, Enerson & Hornik, LLC law firm to file a lawsuit to recover the amount. Ozmun did not answer the lawsuit but was in default and a default judgment was requested but never entered. During the time after the lawsuit was filed

and before the motion for default, Mr. Ozmun apparently paid \$57.00 on his indebtedness. The request for default judgment did not reflect a credit. However, before any judgment was entered (which, according to the record, was never), the request for judgment was altered to include the \$57.00 payment. Plaintiff Ozmun—with five lawyers of record representing him all seeking attorney's fees (as that is all that is involved in this lawsuit)—has responded to the pending motion for summary judgment and there is a sur-response. The file now is over eight inches in height and, if the file was given to a law school class with mandatory reading, every one of the students would have dropped their interest in going to law school.

At the present, the undersigned sees no issue preventing summary judgment for Rausch, Strum, Israel, Enerson & Hornik, LLC and/or Travelers Casualty and Surety Company of America. However, the undersigned will postpone ruling on the motion for summary judgment to enable the parties a final opportunity to confer. The Court cautions Plaintiff Ozmun that this case could warrant sanctions if the only basis for this lawsuit is a technical violation involving \$57.00 (if any violation at all).

Accordingly,

IT IS ORDERED that the parties consult in person with appropriate representatives, counsel, Mr. Ozmun in attendance. At the end of 30 days from this date, the Court expects a dismissal in this lawsuit. If not, the Court will make appropriate rulings and will reserve all requests for sanctions until a trial and/or judgment occurs.

SIGNED this the 11<sup>th</sup> day of April 2017.

  
UNITED STATES DISTRICT JUDGE